IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3489 OF 2006

Rajan Yashwant Purav ..Petitioner.

Vs.

Pravin Shivji Shah ..Respondent.

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Mr. R.D. Motkari for the Petitioner.
Mr. S.D. Patil for the Respondent.

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CORAM: DR. D.Y. CHANDRACHUD, J.

14th June, 2006.

P.C. :

Both the Courts have come to the conclusion that the landlord had established two grounds for eviction viz. i) default in the payment of rent; ii) change in user. In so far as the first ground is concerned, the admitted facts are that despite receipt of the notice of demand dated 4th September, 2000, the tenant neither replied thereto nor tendered the amount of rent. There is no application for fixation of standard rent. The deposit came only on 17th and 24th March, 2003 after the Plaintiff closed his evidence. In these circumstances, the decree on the ground of default does not suffer from any error. There is also a finding of fact that the premises which were let out exclusively for residential use under

the tenancy agreement, Exhibit 25, came to be used for commercial activities. There was an express condition, Condition 11, under which user was permitted for residential purposes. There is no merit in the Petition . The Petition is dismissed. However, on the request of counsel appearing for the Petitioner time to vacate the premises is granted until 31st October, 2006, subject to the filing of the usual undertaking within a period of three weeks from today.